



September 19, 2017

Region 9 Freedom of Information Officer
U.S. EPA, Region 9
75 Hawthorne St.
San Francisco, CA 94105

Headquarters Freedom of Information Officer
US EPA
1200 Pennsylvania Ave NW
Washington, DC 20004

Via Electronic Website Submission

Dear FOIA Officers:

This is a request for information made on behalf of the Environmental Integrity Project (EIP) pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. This is not a request intended for commercial use.

Records Requested

1. This FOIA request seeks documents from or to the United States Environmental Protection Agency, Region 9 and Headquarters (EPA). Regarding Headquarters, this request is specifically addressed to the Office of Enforcement and Compliance Assurance (OECA) and the National Enforcement Investigations Center (NEIC). The documents requested are with regard to Torrance Refinery Company, LLC, located in Torrance, CA:
 - a. Correspondence within the last **two years** from EPA to Torrance Refinery Company, or its predecessors or successors (Torrance), related to identification by EPA Region 9 or Headquarters staff or management of potential violations of the Resource Conservation and Recovery Act (RCRA) and/or Torrance's hazardous waste permit. Examples of such correspondence include but are not limited to:
 - Notices of Violation
 - Show Cause Letters
 - Letters of Concern
 - Notices of Potential Violation
 - Letters that raise potential violations or compliance concerns

- b. Correspondence from Torrance to EPA in response to correspondence identified in 1.a., above.
2. Region 9 and Headquarter RCRA inspection reports issued within the last **three years**, including any multi-media inspection reports for which RCRA was a component.
3. All correspondence from Torrance to EPA or from EPA to Torrance regarding any inspection report identified in 2., above.
4. California Department of Toxic Substances Control (DTSC) inspection reports in EPA's possession that were issued within the last **three years** and any written letter by EPA, DTSC, or Torrance in response thereto.
5. Any correspondence between EPA and DTSC not identified in 1.-4., above, since December 2016.

Claims of Exemption from Disclosure

If you regard any documents as exempt from required disclosure under the Freedom of Information Act, please exercise your discretion to disclose them nevertheless, keeping in mind that FOIA "is the most prominent expression of a profound national commitment to ensuring an open Government" and that "[a]ll agencies should adopt a presumption in favor of disclosure." President Barack Obama, Memorandum For the Heads of Executive Departments and Agencies: Freedom of Information Act, 74 Fed. Reg. 4, 863 (Jan. 26, 2009).

In the alternative, after careful review for the purpose of determining whether any of the information is exempt from disclosure, please provide all reasonably non-exempt portions of records and communications as required by FOIA.

Should you elect to invoke an exemption, please provide the required full or partial denial letter and sufficient information to determine whether or not there may be grounds to appeal EPA's decision. In accordance with the minimum requirements and regulations of due process, this information should include:

Basic factual material, including the originator, date, length, and addresses of the withheld items. Explanations and justifications for denial, including the identification of the exemption applicable to the withheld information or portions of the information found to be subject to exemption, and how each exemption applies to the withheld material.

Request for Fee Waiver

This request meets the case-by-case requirements for a fee waiver under EPA regulations found at 40 C.F.R. § 2.107. Each of the six factors which must be met to satisfy an EPA fee waiver request are discussed as follows:

Factor 1. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government." The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote.

This request seeks enforcement related correspondence issued pursuant to the authorities and requirements set forth in RCRA and the state analog. The documents sought are clearly identifiable enforcement records issued or retained as part of EPA's primary operations and responsibilities related to enforcement and compliance assurance.

Factor 2. The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding when nothing new would be added to the public's understanding.

The principal purpose of this request is to better understand EPA's enforcement policies and mechanisms, as well as their effectiveness in resolving potential violations, and to inform the public accordingly. Appropriate identification and selection of potential violators for enforcement is a key component of compliance assurance; timely prosecution and resolution of such matters is equally important, to the regulated community as well as human health and the environment. Understanding how this process works, and whether it works timely, resolves violations, and improves compliance, will help the public and elected officials better evaluate the effectiveness and efficiency of federal environmental regulatory programs. This information is not already in the public domain.

Factor 3. The contribution to an understanding of the subject by the public is likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding." The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.

As stated above, the information requested is sought to better understand key aspects, including timely resolution of identified violations, of EPA's enforcement and compliance program. The Environmental Integrity Project is a non-profit entity engaged in educating the public about environmental issues and/or taking legal or other actions necessary to ensure compliance with federal environmental laws. The requestor intends to convey this information to the public, including citizens, elected officials, policy makers, and the regulated community, in reports, position papers, interactions with the press, and other means of publicizing and addressing potential instances of noncompliance with important environmental laws. EIP uses its expertise to gather and publicly distribute information related to human health and the environment in a manner that is clear, transparent, and accurate. EIP also advocates for timely enforcement and resolution of violations and informs the public of instances where enforcement responses may be lacking and where compliance assurances can be improved.

Factor 4. The significance of the contribution to public understanding: *Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced significantly by the disclosure. The FOI Office will not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is "important" enough to be made public.*

The requestor intends to analyze the information sought and distribute such analysis in a transparent manner to the public. Although EPA's ECHO provides basic information regarding violations, there is no online database of Torrance's inspection reports or related correspondence; thus, information related to the facts leading up to the identification, including the operating conditions and record-keeping practices discovered at the time of inspection, are available to the public only through FOIA, and thus not otherwise readily available. The requestors will organize and analyze this information and disseminate in a way that will significantly increase the public's understanding of how EPA conducts its enforcement and compliance assurance efforts. This is usually accomplished through reports or letters to key state and federal enforcement officials, which are always made publicly available.

Factor 5. The existence and magnitude of a commercial interest: *Whether the requester has a commercial interest that would be furthered by the requested disclosure. The FOI Office will consider any commercial interest of the requester or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.*

The information delivered in response to this request will not be used for any commercial purpose, business, trade, or profit. The requestor is a public interest organization which has no commercial interest in this material.

Factor 6. The primary interest in disclosure: *Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure that disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. FOI Offices ordinarily will presume that when a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.*

This factor is satisfied because the requestor does not have any commercial interest in disclosing the records sought.

For the above reasons, this request satisfies the fee waiver standards set forth in 40 C.F.R. § 2.107. However, in the event that EPA does not grant the requested waiver, please provide information concerning the specific basis for such a decision as required by EPA regulations as well as an estimate of the cost of the agency's response. In accordance with the FOIA Improvement Act of 2016, please provide responsive documents in an electronic format.

Thank you for your prompt attention to this matter. Should you need further information concerning this request, please do not hesitate to call Mary Greene at (202) 263-4449 or email me at mgreene@environmentalintegrity.org.

Best,

_____/s/_____
Mary E. Greene, Deputy Director
Environmental Integrity Project
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